

## REMARKS

Claims 61-71, 74-83, 86 and 87 are now pending in the application. Claims 61, 65, 74, 78, and 79 are currently amended. Claims 84 and 85 are cancelled by this amendment. Support for the foregoing amendment can be found throughout the specification, drawings, and claims as originally filed and as amended. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

## DRAWINGS

Figures 10A and 10B of the replacement drawings stand objected to for appearing to show new matter. Applicant withdraws the request to enter Figures 10A and 10B. Since the Examiner states that Figures 10A and 10B have not been entered, Applicant understands that original Figure 10 is maintained in the application. The objection should thereby be rendered moot.

Figures 1 and 2 of the drawings stand objected to for failing to include a legend indicating "Prior Art." Applicant submits replacement drawings for Figures 1 and 2 which have been labeled "Prior Art" as requested by the Examiner. Applicant has made the appropriate correction, thereby rendering the objection moot.

The drawings stand objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include certain reference signs mentioned in the specification. Applicant submits replacement drawings for Figures 4, 5, and 11 amended to show the requested reference signs. Applicant has made the appropriate correction, thereby rendering the objection moot.

The drawings stand objected to under 37 CFR 1.83(a) for failing to show every feature of the invention specified in claims 84 and 85. Claims 84 and 85 have been cancelled, thereby rendering the objection moot.

**SPECIFICATION**

Applicant's previous amendment to the specification is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. Applicant amends the specification to cancel the new matter, thereby rendering the objection moot.

The specification is objected to because of certain informalities. Applicant has made the appropriate corrections, thereby rendering the objection moot. Applicant has also made additional stylistic corrections to the specification as necessary.

**REJECTION UNDER 35 U.S.C. § 112**

Claims 84 and 85 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Applicant has cancelled claims 84 and 85, thereby rendering the rejection moot.

Claims 65, 74, 78, and 79 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicant regards as the invention. Applicant has made the appropriate corrections to claims 65, 74, 78, and 79. Accordingly, Applicant requests reconsideration and withdrawal of this rejection.

### **REJECTION UNDER 35 U.S.C. § 102**

Claims 61-64, 71, 80-83, 86, and 87 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ian (GB 2,321,688; "Ian"). This rejection is respectfully traversed.

Claim 1 is amended to include the feature of "a rigid substantially cylindrical outer shell of a substantially "C" shaped cross section." Support for this amendment is based on the text at paragraph [0079] of the specification as published, which discloses "a substantially cylindrical wall of a substantially "C" shaped cross section, in the form of a tubular cylindrical pipe having a section of its outer wall removed." See also paragraph [0080] stating "a hollow semi-tubular substantially cylindrical pipe, of which part of the outer wall has been removed along the whole length of the pipe."

Claims 62-64, 80, 81-83, 86, and 87 have novelty by virtue of their dependency on claim 61. Ian does not have a "rigid substantially cylindrical outer shell of a substantially "C" shaped cross section." Rather, the outer shell in Ian is mainly square as shown in Figure 1(C), Figure 2 and Figure 3 of Ian. Therefore, it is respectfully submitted that the claims define patentable subject matter over Ian. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

### **REJECTION UNDER 35 U.S.C. § 103**

Claims 65-69 and 74-79 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ian. This rejection is respectfully traversed.

Claim 70 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ian in view of Jacoby et al. (U.S. Pat. No. 4,088,229; "Jacoby"). This rejection is respectfully traversed.

Paragraph [0014] of the present application refers to prior art column protector types having a substantially square or rectangular outer shell. These types suffer from the problem of splitting at their edges when subjected to impact. In Ian, the outer shell is substantially square (although it does have rounded edges). The column protector as disclosed in Ian is subject to splitting at its edges when subjected to impact. On the other hand, the present application discloses a column protector having a "C" cross section shape. The shape conveys the propagation of sharp forces internally along the shell toward the rear of the upright into the ambient atmosphere. The simultaneous deflecting and defusing action reduces the impact force from being transmitted to the vulnerable front and lateral faces of the rack upright (see paragraph [0101] as published).

Additionally, as shown in Figure 11 and paragraph [0109] of the published specification (equivalent to the specification as filed), off center impact forces are dissipated in the material of the outer shell and inner liner over a relatively longer distance in the material of the inner liner and outer shell than is the case with a known prior art impact protector having a substantially square or rectangular shape and an outer liner having a face parallel to the front of the column, i.e., compared to a prior art impact protector as disclosed in Ian.

As discussed at paragraph [0111] of the published specification, for an impact in a direction approximately normal to the front face of the column, the impact may be deflected by the round shape of the part cylindrical outer shell, so that a vehicle or other machinery colliding with the column protector is more likely to be deflected away from the column and slide off the column protector, as compared with prior art square or rectangular shaped column protectors such as Ian. The outer shell's curved shape results

in good performance at deflecting machinery (see, for example, paragraph [0116] of the specification as published). By having a substantially cylindrical outer shell, different in shape than that of Ian, the machinery deflection performance of the column protector is enhanced. Further, the impact absorption performance is also enhanced by the cylindrical shape, which dissipates an impact at the front of the protector to the relatively stronger rear of the column, to a greater extent than in Ian.

It is respectfully submitted that the present embodiments provide a technical advantage over the prior art device of Ian, due to the cylindrical section shape. Claims dependent on claim 61 contain an inventive step by virtue of their dependency on claim 61, as amended. Therefore, it is respectfully submitted that the claims define patentable subject matter over the cited references. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

#### CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: November 5, 2010

By: /Gregory A. Stobbs/ \_\_\_\_\_  
Gregory A. Stobbs  
Reg. No. 28,764

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. Box 828  
Bloomfield Hills, Michigan 48303  
(248) 641-1600

GAS/dec

15741533.1